



National Union of Water And Sewerage Employees v Nairobi City Water and Sewerage Company Limited; Kenya County Government Workers Union (Interested Party) (Cause 399 of 2012) [2025] KEELRC 1042 (KLR) (3 April 2025) (Judgment)

Neutral citation: [2025] KEELRC 1042 (KLR)

**REPUBLIC OF KENYA
IN THE EMPLOYMENT AND LABOUR RELATIONS COURT AT NAIROBI
CAUSE 399 OF 2012**

**L NDOLO, J
APRIL 3, 2025**

BETWEEN

NATIONAL UNION OF WATER AND SEWERAGE EMPLOYEES ... CLAIMANT

AND

**NAIROBI CITY WATER AND SEWERAGE COMPANY
LIMITED RESPONDENT**

AND

KENYA COUNTY GOVERNMENT WORKERS UNION . INTERESTED PARTY

JUDGMENT

1. By its Memorandum of Claim dated 12th March 2012 and amended on 25th September 2012, the Claimant pursues execution of an amended Collective Bargaining Agreement (CBA) with the Respondent.
2. From the record, the Respondent did not file a response to the claim.
3. On its part, the Interested Party filed a Response dated 30th January 2024, to which the Claimant responded on 13th March 2024.

The Claimant's Case

4. The Claimant states that it is a registered trade union, with the mandate to represent unionisable employees in the water sector.
5. The Claimant further states that it has a Recognition Agreement with the Respondent in force. It adds that it had negotiated CBA with the Respondent, which expired on 31st July 2011.



6. The Claimant claims to have forwarded its proposals for a new CBA to the Respondent. A dispute arose with respect to the proposals and the Claimant reported a trade dispute to the Minister for Labour on 4th February 2011. By letter dated 14th February 2014, J.N Makaa was appointed as Conciliator.
7. There was no resolution of the dispute at the conciliation stage and the Conciliator issued a certificate to that effect.
8. The Claimant accuses the Respondent of engaging in unorthodox measures to terminate the Recognition Agreement, while entertaining a rival union, the Interested Party in these proceedings.
9. The Claimant points to pending claims in Causes No 1722 of 2011 and 823 of 2012, lodged on behalf of its members against the Respondent, as a major reason why the Respondent wishes to destroy the Claimant Union.
10. The Claimant further accuses the Respondent of harassment and victimisation of the Claimant's members.
11. The Claimant terms the Interested Party as a stranger being used as a tool by the Respondent.
12. The Claimant seeks the following remedies:
 - a. A mandatory injunction directing the Respondent to execute a CBA with the Claimant, incorporating the entire proposals made by the Claimant, pursuant to the amended CBA dated 20th July 2011;
 - b. A permanent injunction restraining the Respondent, its agents, servants or persons acting under its direction and authority, from harassing or victimising the Claimant's members.
13. The Claimant also asks for costs of the case.

The Interested Party's Case

14. In its Response dated 30th January 2024, the Interested Party states that it is a stranger to the averments contained in the amended Memorandum of Claim. It asserts that it is not privy to any CBA negotiations between the Claimant and the Respondent, nor has it influenced the Respondent's action or inaction in relation to any CBA with the Claimant.
15. The Interested Party avers that the Claimant does not have the locus standi to institute this claim as it is a non-existent union, having been replaced by the Kenya Union of Water and Sewerage Employees.
16. The Interested Party maintains that the Claimant does not have any cause of action against it, as it is not faulted nor adversely mentioned anywhere in the amended Memorandum of Claim.
17. According to the Interested Party, it is the majority trade union, representing 98% of the Respondent's unionisable employees, with a valid Recognition Agreement with the Respondent.
18. The Interested Party asserts that it represents a simple majority of the Respondent's unionisable employees and is therefore the right union to receive trade union dues collected by the Respondent.

Findings and Determination

19. Although the Claimant seeks both mandatory and restrictive injunctions against the Respondent, what emerges is that the substance of this dispute, as gleaned from the pleadings and submissions filed



by the Claimant and the Interested Party, is a case of demarcation of interests within the Respondent's unionisable establishment.

20. For reasons that there were not clear to the Court, the Respondent chose not to file any pleadings or submissions, thus denying the Court the benefit of its perspective on this case.
21. The Claimant accuses the Respondent and the Interested Party of colluding to lock it out of the Respondent's unionisable establishment.
22. On its part, the Interested Party, while challenging its joinder in these proceedings, seeks to lay a stake as the majority trade union within the Respondent's establishment. The Interested Party goes further to suggest that the Claimant is non-existent, having been replaced by the Kenya Union of Water and Sewerage Employees.
23. In its written submissions dated 13th January 2025, the Interested Party cites the decision in Kenya County Government Workers Union v Nairobi City Water & Sewerage Co Ltd & 3 others; National Union of Water & Sewerage Employees (Interested Party) [2023] KEELRC 2502 (KLR) where it was held that NUWASE is not a legally recognised trade union, with KUWASE being affirmed as the duly registered trade union in the water sector.
24. None of the parties called any witnesses to support their diverse positions. Significantly, the Claimant did not adduce any evidence to support its case against the Respondent. In the result, none of the allegations were proved and the only thing to do is to dismiss the claim, which I hereby do.
25. Each party will bear their own costs.
26. Orders accordingly.

DELIVERED VIRTUALLY AT NAIROBI THIS 3RD DAY OF APRIL 2025

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JUDGE

Appearance:

Mr. Maosa for the Claimant

No appearance for the Respondent

Mr. Odunga for the Interested Party

